

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION**

In Re:

LINDA GREENE

**CASE NO. 22-01830-5-JNC
CHAPTER 13**

Social Security No. xxx-xx-8929

Address: 10860 US Highway 17 S., Pollocksville NC 28573-

Debtor

MOTION TO PARTIALLY AVOID JUDICIAL LIEN OF CAROLINA WINDOWS & DOORS, INC.

NOW COMES the Debtor, by and through counsel, and moves to avoid the judicial lien of Carolina Windows & Doors, Inc. ("Creditor") pursuant to 11 U.S.C. § 522(f) and Rules 4003(d) and 9014 of the Federal Rules of Bankruptcy Procedure by showing unto the court the following:

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157, and the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334. The court has the authority to hear this matter pursuant to the General Order of Reference entered on August 3, 1984 by the United States District Court for the Eastern District of North Carolina.
2. The Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code on August 17, 2022 ("Petition Date").
3. The Debtor is now, and has been at all times since this case was filed, the owner of a 100% title interest in the real property ("Property") as described in Book 347 at Page 894 as recorded on 01/14/2011 in the Registry of Deeds for the County of Jones, North Carolina, which property may also now or formerly be known as 10860 US Highway 17 S, Pollocksville, NC 28573.
4. As of the Petition Date, the fair market value of the Property was \$80,000.00.
5. As of the Petition Date, the Property was the residence of the Debtor, and the Debtor has claimed and was entitled to claim an exemption in the Property pursuant to N.C.G.S. § 1C-1601(a)(1) of not more than \$35,000.00.
6. Prior to the filing of this case, Carolina Windows & Doors, Inc. ("the Creditor") obtained a judgment against the Debtor on or about 03/02/2021 in the amount of approximately \$7,797.40 as referenced in file number 21-CVM-000006 in the Office of the Clerk of Court of Jones County.
7. As a result, the Creditor holds a judicial lien against Debtor's interest in the Property.
8. Upon information and belief, the balance owing to the Creditor concerning the judicial lien, together with interest, as of the Petition Date, was approximately \$8,708.31.
9. Upon information and belief, as of the Petition Date, the only other liens against the Property recorded in Jones County were the following:

Name of Creditor Holding Lien	Type of Lien	Unpaid Balance of Lien As of Petition Date
21st Mortgage Corporation	Deed of Trust	\$44,759.02
Total Unpaid Balance Of Other Liens:		\$44,759.02

10. Since the sum of: (1) The amount of the judicial lien held by Carolina Windows & Doors, Inc. (\$8,708.31), (2) The total amount of all other liens on the Property (\$44,759.02), plus (3) The amount of the exemption that the Debtor was entitled to claim if there were no liens on the Property (\$35,000), exceeds the value of the Property (or, in the event that the Debtor owns less than a 100% interest in the Property, the value of her interest in the Property) by \$8,467.33 (\$88,467.33 - \$80,000), the judicial lien impairs an exemption of the Debtor to that extent, and therefore, pursuant to U.S.C. § 522(f)(2)(A), the judicial lien is avoidable to the extent of \$8,467.33.
11. The Debtor also moves the Court for approval of an presumptive additional attorney fee pursuant to U.S. Bankruptcy Court Local Rule 2016-1(a)(6), to pay for the processing of this motion and the ensuing order.

WHEREFORE, the Debtor prays that the court enter an Order as follows:

1. Avoiding the judicial lien held by Carolina Windows & Doors, Inc. to the **extent of \$8,467.33**;
2. Approving an additional attorney fee, payable to the Law Offices of John T. Orcutt, P.C., in the sum of **\$500.00** to pay for the services outlined above; and
3. Granting such other and further relief as to the court may seem just and proper.

Dated: February 16, 2023

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Raymond DiGuiseppe

Raymond DiGuiseppe
N.C. State Bar No. 41807
6616-203 Six Forks Road
Raleigh, N.C. 27615
Telephone: (910) 920-0902
Fax: (910) 444-1279
Email: postlegal@johnorcutt.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
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In Re:

LINDA GREENE

**CASE NO. 22-01830-5-JNC
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Social Security No. xxx-xx-8929

Address: 10860 US Highway 17 S., Pollocksville NC 28573-

Debtor

NOTICE OF MOTION

The Debtor has filed papers with the court to avoid the judicial lien held by Carolina Windows & Doors, Inc., pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014, and for approval of an additional attorney fee for processing this motion and the ensuing order.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in this motion, or if you want the court to consider your views on the motion, then on or before fourteen (14) days after the date on this notice, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: Clerk, U.S. Bankruptcy Court, P.O. Box 791, Raleigh, N.C. 27602.

If you mail your response to the court for filing, you must mail it early enough so that court will **receive** it on or before the date stated above. **You must also send a copy to the following:**

Law Offices of John T. Orcutt Attorney 6616-203 Six Forks Rd. Raleigh, N.C. 27615	Joseph A. Bledsoe, III Chapter 13 Trustee P.O. Box 1618 New Bern, N.C. 28563
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If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in this motion and may enter an order granting that relief.

Dated: February 16, 2023

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Raymond DiGuiseppe

Raymond DiGuiseppe
N.C. State Bar No. 41807
6616-203 Six Forks Road
Raleigh, N.C. 27615
Telephone: (910) 920-0902
Fax: (910) 444-1279
Email: postlegal@johnorcutt.com

CERTIFICATE OF SERVICE

I, Charlene Ennemoser, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on February 16, 2023, I served copies of the foregoing **MOTION AND NOTICE OF MOTION TO AVOID JUDICIAL LIEN** by **certified mail** upon the following parties:

Carolina Windows & Doors, Inc.
Attn: Officer or Managing Agent
3203 S Memorial Drive
Greenville, NC 27834-

and by **regular first-class U.S. mail** upon the following parties:

Linda Greene
10860 US Highway 17 S.,
Pollocksville NC 28573-

and by **automatic electronic noticing** upon the following parties:

Joseph A. Bledsoe, III
Chapter 13 Trustee

/s Charlene Ennemoser

Charlene Ennemoser